IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 16013 of 2007(F)

PETITIONER:

SAJEEVKUMAR K.T., SECRETARY,
THOPRAMKUDY SERVICE CO-OPERATIVE BANK,
THOPRAMKUDY, IDUKKY DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.TOJAN J. VATHIKULAM

RESPONDENTS:
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1. **KERALA PUBLIC SERVICE COMMISSION,**
   THIRUVANANTHAPURAM - REPRESENTED BY ITS
   SECRETARY.

2. **THE DISTRICT OFFICER,**
   KERALA PUBLIC SERVICE COMMISSION,
   DISTRICT OFFICE, IDUKKI.

3. **THE IDUKKI DISTRICT CO-OPERATIVE**
   BANK, IDUKKI - REPRESENTED BY ITS
   GENERAL MANAGER.

BY ADV. SRI.ALEXANDER THOMAS,SC,KPSC for R1 & R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.16013/2007 F

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE NOTIFICATION DTD. 25/04/2006.**

EXT.P2: **COPY OF THE APPOINTMENT ORDER DTD. 25/04/1996.**

EXT.P3: **COPY OF THE CERTIFICATE ISSUED BY THE SECRETARY OF THE SOCIETY STATING THAT THE PETITIONER HAD BEEN WORKING FROM 2/05/1996 TO 19/08/1998 ON REGULAR BASIS.**

EXT.P4: **COPY OF THE CERTIFICATE ISSUED BY THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), UDUMBANCHOLA DTD. 30/11/2006 CERTIFYING THAT THE PETITIONER HAD SEREVED THE IDUKKI DISTRICT HEALTH SERVICES STAFF CO-OPERATIVE SOCIETY FROM 2/05/1996 TO 19/08/1998 AS JUNIOR CLERK.**

EXT.P5: **A CERTIFICATE ISSUED BY THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), UDUMBANCHOLA TO THE EFFECT THAT THE PETITIONER IS WORKING AS SECRETARY OF THE THOPRAMKUDY SERVICE CO-OPERATIVE BANK FROM 14/08/2003.**

EXT.P6: **COPY OF THE COMMUNICATION DTD. 17/11/2006.**

EXT.P7: **COPY OF THE COMMUNICATION DTD. 16/04/2007 ISSUED BY THE 2ND RESPONDENT.**

EXT.P8: **COPY OF THE EXAMINATION CALENDAR PUBLISHED BY THE PUBLIC SERVICE COMMISSION.**

/TRUE COPY/

P.S.TO JUDGE

KSS

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.16013 of 2007-F

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Dated this the 13th day of November, 2007.

JUDGMENT

1. The petitioner is employed in Thopramkudy Service Co-operative Bank from 14-8-2003. Before that, he served the Idukki District Health Services Staff Co-operative Society Ltd. from 2-5-1996 to 20-8-1998.

2. The petitioner applied for being appointed against the quota earmarked for employees of Primary Co-operative Societies in the District Co-operative Bank in Idukki District. As per Ext.P1, the relevant notification, the last date of submitting applications was 24-5-2006.

3. The Public Service Commission rejected the petitioner's

application, as per Ext.P7, taking the view that he did not possess continuous service in a cadre in a particular society. The PSC has placed a counter affidavit on record.

4. The provision falling for consideration is one of the prescriptions in the qualification, to the following effect:

> "Must be regular employee who has completed not less than three years regular service in any cadre and continuing in service in a member Society/Primary Co-operative Society affiliated, to the respective District Co-operative Bank."

5. The PSC does not contend that the society where the petitioner works and those where he had worked earlier, are not primary co-operative societies affiliated to the Idukki District Co-operative Bank. The contention of the PSC that the petitioner's claim is for 29 months as Clerk and 33 months as Secretary and therefore, he cannot be treated as having earned the requisite experience in any cadre no more survives the decision of this Court in **Abdul Rasheed v.**

Kerala Public Service Commission]2002 (3) KLT 405].

6. The next contention of the PSC is that the petitioner did not have continuous service in a particular society. The principle embedded in the prescription of qualification, as quoted above, is that a person aspiring to be recruited against the quota earmarked for employees of primary co-operative societies ought to have been a member of any cadre of a particular society and ought to be continuing in service of such a primary co-operative society as on the date of submission of application for consideration. There is no prescription that the experience of three years should be gained by continuity in the same establishment or the same primary co-operative society. There is no room to read into Ext.P1, notification, such an interpretation, as put forth by the PSC.

7. The period after the petitioner left the service of the Idukki District Health Services Staff Co-operative Society Ltd. and

until he joined Thopramkudy Service Co-operative Bank is not one that has any adverse impact on the claim of the petitioner that he has earned three years of service in primary co-operative society and is continuing in the service of a particular society/primary co-operative society.

8. For the foregoing reasons, this writ petition is allowed quashing Ext.P7 and directing that the application of the petitioner would be taken back and treated as valid and he would be considered as against the 50% quota in terms of Rule 187 of the KCS Rules, for recruitment to the Idukki District Co-operative Bank from among employees of its particular/primary co-operative societies, in terms of Ext.P1 notification.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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